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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 7th March, 1975:—

BILL No. 3 OF 1975

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1975. Short title.

2. In article 270 of the Constitution, in clause (1), the following proviso shall be inserted at the end, namely:— Amendment of article 270.

"Provided that in case of farmers such tax shall be collected by the States in the manner provided for in article 364A.".

3. After article 364 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 364A.

"364A. (1) The income of a farmer, other than agricultural income, shall be assessed for the purposes of income-tax once for five years: Special provisions for farmers regarding assessment and collection of income-tax.

Provided that the assessee farmer shall be entitled to have the amount of loss, if any, in a year set off against his total income already computed.

(2) Agricultural income of a farmer shall be computed, if required under the provisions of law relating to income-tax, on the basis of land holding and the categorisation of land under the land ceiling law applicable to the farmer, and the agricultural income once computed shall be valid for five years:

Provided that the farmer shall be entitled to have the amount of loss, if any, in agricultural income in a year, due to any reason, set off against the agricultural income already computed.

(3) In case of a farmer, the income-tax shall be collected by the States with the land revenue.".

STATEMENT OF OBJECTS AND REASONS

The farmer's job is a 24 hour round the year one. If he is detracted from his work, his production suffers. One of the most harassing and time consuming process is the filing of income-tax returns. With the requirement of computation of net agricultural income for the purpose of determining the rate of income-tax to be applied to the total income under the provisions of Finance Act, 1974, the process of assessment of income-tax has become more time consuming. It is, therefore, necessary in the context of the food shortage that a system of assessment of income-tax is evolved which would save the farmer from running about jobs, such as income-tax matters, that are not productive. The farmer should be saved from the botheration of filing income-tax returns every year. It would give some relief to the farmer if his income liable to tax is assessed once for five years. The mode of collection of income-tax should also be changed so as to facilitate its payment by the farmer without loss of time which he can devote to production. Time will be saved if income-tax is collected by the States with land revenue.

Hence this Bill.

NEW DELHI; RANA BAHADUR SINGH.

The 6th September, 1974.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 300/FM/74-VIP-I, dated the 17th December, 1974 from Shri C. Subramaniam, Minister of Finance to the Secretary-General, Lok Sabha.]

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The President having been informed of the subject matter of the proposed Bill has recommended under clause (1) of article 117 of the Constitution the introduction of the Bill in the Lok Sabha by Shri Rana Bahadur Singh, M.P.

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

Taxes levied and collected by the Union and distributed between the Union and the States.

270. (1) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided in clause (2).

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BILL NO. 6 OF 1975

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1975. Short title.

2. In sub-clause (c) of clause (3) of article 171 of the Constitution, the words "not lower in standard than that of a secondary school," shall be deleted. Amendment of article 171.

STATEMENT OF OBJECTS AND REASONS

It is a universally accepted fact that the foundation of every State lies in the education of its youth. The teacher's profession thus plays an important and respectable role in a democracy. In a country like India where the benefit of education is still to be given to the vast majority of the population, teachers should all the more be respected and their rights recognised. But in the formation of an electoral college to the Legislative Council of a State under article 171 of the Constitution of India, there is a discrimination against teachers working in primary or elementary schools or other educational institutions lower in standard than that of a secondary school. This discrimination is unwise and unreasonable. A teacher is a teacher irrespective of the standard or grade of the school he is working in. This Bill seeks to remove this invidious discrimination and to give equal status and respect to all teachers in forming the electorate to send their representatives to the Legislative Council of a State.

NEW DELHI;
The 22nd January, 1975.

ERA SEZHIYAN.

ANNEXURE

EXARACT FROM THE CONSTITUTION OF INDIA

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171. (1) *

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(3) Of the total number of members of the Legislative Council of a State— Composition of the Legislative Council.

* * * *

(c) as early as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;

BILL NO. 7 OF 1975

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1975.

Amendment of article 352.

2. In article 352 delete the existing clauses (2) and (3).

3. In article 352 insert the following as clauses (2), (3) and (4):—

"(2) Any such Proclamation may be revoked or varied by a subsequent Proclamation.

(3) Every Proclamation under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation (not being a Proclama-

tion revoking a previous Proclamation) is issued at a time when the House of the People is dissolved or the dissolution of the House of the People takes place during the period of two months referred to in this clause, and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

(4) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of the passing of the second of the resolutions approving the Proclamation under clause (3):

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of six months from the date on which under this clause it would otherwise have ceased to operate, but no such Proclamation shall in any case remain in force for more than three years:

Provided further that if the dissolution of the House of the People takes place during any such period of six months and a resolution approving the continuance of force of such Proclamation has been passed by the Council of States, but no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the continuance in force of the Proclamation has been also passed by the House of the People."

STATEMENT OF OBJECTS AND REASONS

The right of the President to proclaim a state of emergency in the country is confined to situations where there is external aggression or internal rebellion. Being an emergency provision this ought not to be unnecessarily prolonged. But since the proclamation of a state of emergency confers extraordinary powers on the executive, the Government is reluctant to give up this power. This growing appetite of the executive for unfettered power, will if unchecked, spell disaster for our democratic institutions.

Experience shows that the state of emergency is deliberately prolonged by the executive even after the danger which necessitated its proclamation in the first place has passed away. The first emergency was proclaimed in the wake of Chinese aggression in 1962. The danger of renewed Chinese attack receded after 1963, and yet the Government continued the state of emergency for four more years. This was nothing but a fraud on the Constitution.

The state of emergency was proclaimed a second time on the 3rd of December, 1971. The reason given was external aggression. This danger also passed away after the decisive victory scored by the people of Bangladesh and India in the fifteen days war of 1971. Thereafter Bangladesh came into existence as a sovereign Independent Republic. It not only received recognition from the major powers of the world, but was also formally seated in the United Nations as a regular member. The relationship with Pakistan, too, became normalised as early as 1972 with the signing of the Simla Pact. The Government is, however, shamelessly clinging on to the extraordinary powers which the proclamation of national emergency conferred on it. What was clearly meant to be an emergency power has now become a normal feature of our constitutional arrangements. It is, therefore, absolutely necessary to check this blatant abuse of emergency power.

Since a challenge to the continuation of emergency is not likely to be entertained by the Courts on the ground that the question was political, an amendment of the Constitution becomes unavoidable.

This Constitution (Amendment) Bill, therefore, seeks to put some restrictions on the powers of the executive in the matter of prolonging the state of emergency. Just as under the emergency provision of article 356 periodical approval of Parliament is necessary for continuing Presidential Rule in a State, similarly this amendment seeks to make periodical parliamentary approval necessary for prolonging the state of emergency in the country. Mandatory consultation with Parliament will provide an opportunity to the Opposition to have a thorough discussion of the implications of any prolongation of the state of emergency, and will indirectly put a curb on the executive propensity to grab more and more powers and to retain them on one pretext or the other.

NEW DELHI; MADHU LIMAYE.
The 3rd February, 1975.

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

Proclamation of Emergency.

352. (1) If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, he may, by Proclamation, make a declaration to that effect.

(2) A Proclamation issued under clause (1)—

(a) may be revoked by a subsequent Proclamation;

(b) shall be laid before each House of Parliament;

(c) shall cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation is issued at a time when the House of the People has been dissolved or the dissolution of the House of the People takes place during the period of two months referred to in sub-clause (c), and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect of such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

(3) A Proclamation of Emergency declaring that the security of India or of any part of the territory thereof is threatened by war or by external aggression or by internal disturbance may be made before the actual occurrence of war or of any such aggression or disturbance if the President is satisfied that there is imminent danger thereof.

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BILL No. 9 OF 1975

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1975.

Amendment of article 359.

2. In Article 359 insert the following new clause (4):—

"(4) No order issued under this article shall come into force unless it has been approved by the two Houses of Parliament in accordance with the procedure laid down by them for the purpose under article 118."

STATEMENT OF OBJECTS AND REASONS

Under the provision of Article 359, once a state of emergency is proclaimed by the President, the executive can by an order suspend the enforcement of fundamental rights conferred by Chapter III on the citizens of India. It is a distinguishing feature of the Indian Constitution that under it the right to enforce fundamental rights by moving the Supreme Court has itself been made a fundamental right. In the United States, a citizen can go before the Supreme Court only in appeal whereas the Supreme Court in India has been given original jurisdiction to decide cases involving violation of the citizens basic rights. A suspension of these rights, including the right to judicial remedy, is, therefore, a very grave matter. Unless some curb is put on the unrestricted powers of the executive to suspend these rights, democratic institutions would be put in great jeopardy. By the simple device of having recourse to prolongation of the state of emergency and the duration of President Order issued under Article 359, an authoritarian regime can be clamped down on the country.

The Bill, therefore, makes the operation of this Order subject to approval by Parliament. The procedure for giving or withholding this approval will be laid down by the two Houses under the rule-making powers which they possess under Article 118.

This Bill will go some way in restraining the executve from action in a despotic manner.

NEW DELHI; MADHU LIMAYE.

The 1st February, 1975.

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

Suspension of the enforcement of the rights conferred by Part III during emergencies.

359. (*1*) Where a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of such of the rights conferred by Part III as may be mentioned in the order and all proceedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the order.

(*2*) An order made as aforesaid may extend to the whole or any part of the territory of India.

(*3*) Every order made under clause (*1*) shall, as soon as may be after it is made, be laid before each House of Parliament.

S. L. SHAKDHER,
Secretary-General.

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